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NEIL H. GREENBERG, ESQ.

JUSTIN M. REILLY, ESQ.  
KEITH E. WILLIAMS, ESQ.

PARALEGALS

ROSA COSCIA  
CATALINA ROMAN

**Via: ECF**

**July 14, 2023**

Honorable Mary Kay Vyskocil  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 2230  
New York, NY 10007

**Re: *Garrido v. F&M Construction and Development Corp. et al.*; 21-cv-04084 (MKV)(BCM)**

Dear Hon. Judge Vyskocil,

My office represents the Named Plaintiff and the Opt-In Plaintiffs who have joined this FLSA lawsuit (collectively, the “Plaintiffs”). Pursuant to Your Honor’s July 12, 2023 Order, kindly accept this correspondence on behalf of the Parties. I write jointly with defense counsel who has reviewed this letter and consents to its joint filing. In Your Honor’s Order, the Parties were directed to explain why this case should not be dismissed for failure to prosecute and counsel should not be sanctioned for failing to comply with the Court’s orders. *See* D.E. 69.

On June 30, 2022, the Parties appeared before Your Honor to address several outstanding discovery issues. Since that appearance, Defendants produced certain responsive documents, D.E. 59-67, and the Court issued a Discovery Order on July 18, 2022, D.E. 68. Plaintiffs served notices of deposition on July 5, 2022, and, after several scheduling conflicts, Defendant Koita appeared and testified on behalf of himself and the corporate defendant on February 21, 2023. The Parties have also engaged in several settlement discussions in an attempt to resolve this case.

Yesterday, July 12, 2023, the Parties received the Court’s Order to Show Cause. D.E. 69. Plaintiffs’ counsel immediately checked the docket and realized that the Court had directed the Parties to file a status letter by July 29, 2022. D.E. 68. The status letter deadline was not put on the firm’s calendar and, until presently, Plaintiffs’ counsel had been mistakenly awaiting the scheduling of a Final Pre-Trial Conference. Defense counsel also did not realize that the Court had directed the Parties to file a status letter until we conferred earlier yesterday. Counsel for the Parties apologize for this inadvertent oversight and respectfully submit that they have not abandoned this action, as the taking of Defendants’ deposition in February and the continued settlement negotiations demonstrate.

The Parties respectfully request that the Court schedule the Final Pre-Trial Conference for a date convenient to the Court in early- to mid-September with the Final Pre-Trial Order due one week in advance.

We again apologize for our oversight and thank the Court for its consideration of this request.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Keith E. Williams', is positioned above the printed name.

Keith E. Williams, Esq.

cc: all counsel of records via ECF.